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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,408	05/18/2005	Naoyuki Mochida	P27937	6002
52123 7590 03/18/2010 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER				
NGUYEN, TRAN N				
ART UNIT		PAPER NUMBER		
3626				
NOTIFICATION DATE		DELIVERY MODE		
03/18/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com

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Office Action Summary

Application No.

10/535,408

Applicant(s)

MOCHIDA, NAOYUKI

Examiner

Tran Nguyen

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 11-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/225)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 11-19, 21-25, drawn to a relay server.

Group II, claim(s) 20, drawn to a service delivery system.

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature in all groups is the user authenticator and the application server searcher. These elements cannot be a special technical feature under PCT Rule 13.2 because these elements are shown in the prior art. Krishnaswamy (5867494) teaches software capable of authenticating the user (column 26 line 30-34) and searching for data (column 40 line 51-53) as claimed in claims 1-20.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Response to Arguments

Applicant's arguments filed 12/15/2009 have been fully considered.

On page 1 Applicant argues:

Examiner's Response:

Applicant respectfully traverses the Examiner's restriction requirement. In this regard, in addition to the arguments presented below as to why the restriction requirement is inappropriate and should be withdrawn, Applicant submits that the present application is a national stage application filed under 35 U.S.C. §371, and thus, unity of invention practice, and not restriction practice, governs in this application.

This argument is found to be persuasive. Therefore, the previous Office Action is hereby withdrawn.

On page 2 Applicant argues:

Firstly, Applicant submits that claim 20 (e.g., non-elected Invention II) corresponds to prior claim 10, the claim differing in that claim 20 was revised to be placed in better U.S. form. The elements of prior examined claim 10 are found in non-elected claim 20. The Examiner has previously performed a search and examined claim 10 (see Office Action mailed on April 3, 2009). Since the Examiner previously concluded there would be no hardship in examining the subject matter of prior claims 10, and actually performed a search with respect to prior claim 10 (as claim 10 was subjected to a prior art rejection in the aforementioned Office Action), Applicant submits that presently pending claim 20 (e.g., non-elected Invention II), which corresponds to prior examined claim 10, should also be examined.

Newly added claim 20 has not been examined. Since all pending claims are newly added, the scope of all claimed subject matter has changed.

Therefore, restriction is found to be proper.

On page 3 Applicant argues:

Secondly, it would appear that the search for the inventions identified by the Examiner would be coextensive or at least significantly overlap. That is, if the Examiner were to perform a search for Invention I (e.g., claims 11-19 and 21-25), i.e., the relay server, there would not appear to be a serious burden in continuing the examination (which Applicant submits has already been done with respect to prior claim 10) for Invention II (e.g., claim 20), i.e., a service delivery system for the relay server.

As discussed above, the claims lack unity for the reasons outlined above.

The second part of Applicant's arguments has been addressed above.

Applicant's remaining argument on page 3 is found to be persuasive, as discussed above and incorporated herein.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran (Ken) N. Nguyen whose telephone number is 571-270-1310. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald (Jerry) J O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./
Examiner, Art Unit 3626

Application/Control Number: 10/535,408

Page 6

Art Unit: 3626

03/11/2010

/C. Luke Gilligan/

Primary Examiner, Art Unit 3626